

## **Procedures for Processing Requests for Waiver of OMB Circular A-133 Single Audit Requirements Based on Low-Risk Auditee Status**

### **Background**

Paragraph \_\_.520 of OMB Circular A-133 (Circular) requires the auditor to use a risk-based approach to determine which Federal programs are major programs. The risk-based approach shall include consideration of: current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The auditor is responsible for making the determination of whether a program or auditee is low risk using the guidance included in the Circular.

OMB Circular A-133 requires that the auditor audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass 50 percent of total Federal awards expended. If the auditee meets all of the criteria in paragraph \_\_.530 for a low risk auditee, it is eligible for reduced audit coverage and the auditor need only audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

The criteria for low risk auditee status include: (1) having single audits performed on an annual basis; (2) receiving an unqualified opinion on the financial statements and the schedule of Federal awards; (3) having no deficiencies in internal control identified as material weaknesses under requirements of generally accepted government auditing standards; and (4) having no findings in the following areas in the preceding two years in any of its Federal programs in which they were classified as Type A:

- Internal control deficiencies which were identified as material weaknesses;
- Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or
- known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

Paragraphs \_\_.530 (b) and(c) stipulate that the cognizant or oversight agency may judge that any identified material weaknesses in internal controls or that an opinion qualification on the financial statements and the schedule of Federal awards do not affect the management of Federal awards and provide for a waiver in order to qualify as a low risk auditee. The Department of Education is the cognizant or oversight agency when it provides the largest amount of direct Federal awards or, if the entity receives no direct funding, the largest amount of Federal awards passed through nonfederal agencies.

The Department of Education will use the following procedures to process requests for waivers

under the above provisions of OMB Circular A-133:

1. Entities (where ED is the cognizant or oversight agency) seeking waivers will be requested to obtain the concurrence of their pass through entities, i.e., the non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program. The Office of the Chief Financial Officer (OCFO) and/or the Office of Inspector General (OIG) will coordinate with any other Federal agencies that awarded direct funds to the entity to obtain their input or comments prior to taking action on waiver requests.
2. Requests for waivers should include an explanation of why a waiver is required and how the entity qualifies for a waiver. In addition, copies of the entity's single audits for the prior two fiscal years along with the written concurrence of the pass through entities must be included with the request.
3. The waiver request, including any required concurrence and supporting information, must be submitted to the director, Post Audit Group, in the OCFO, address shown below. The OCFO's staff will coordinate review by the OIG and by other Departmental offices.
4. The OIG will review the request within 20 working days to determine whether it satisfies the criteria for low risk auditee as defined in A-133 and provide a recommendation for approval or denial of the request to the OCFO.
5. The OCFO will evaluate the request for its potential impact on the Department's financial statements, if any, along with any monitoring results, comments from program offices and the Office of the General Counsel. Program staff may use information available from various sources, including site visits, program or OIG reports. In assessing whether an entity is capable of managing federal programs, and making recommendations to the OCFO regarding a specific entity's waiver request, program staff will be guided by OMB's guidance regarding low-risk auditee status (described above).
6. The OCFO will provide a response to the requesting entity within 30 working days after receiving the OIG's recommendation, with a copy to the pass through entity.
7. OCFO will maintain log-in records to track the receipt and ensure the timely response to waiver requests and to monitor the effectiveness of the procedures for handling the requests.

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